



REMARKS

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DEC 31 2002
TC 1700

USSN 09/715,775
2000U034.US

Objections

Claims 24-26 are amended to correct the informality pointed out by the Examiner. Claims 35 and 49 are amended to correct the informality pointed out by the Examiner. Claim 40 is amended to correct the informality pointed out by the Examiner.

Section 112 Rejection

Claims 34 and 48 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. These claims are cancelled.

Section 102 Rejection

Claims 23-28, 30, 33, 36-42, 44-47, 50-51 and 53 were rejected under 35 U.S.C. § 102(b) as being anticipated by US 5,674,795 to *Wasserman et al.* This rejection is traversed as discussed below.

Claims 23 and 43 are believed allowable as they stand. In particular, there is no disclosure within *Wasserman* of the step (ii) in Claim 23 and step (a) in Claim 43. Step (ii) as claimed refers to “combining an ionizing activator” with the product of step (i) to form a catalyst composition. Step (a) of Claim 40 refers to adding both an MAO and ionizing activator together. There is no unambiguous disclosure in *Wasserman* of this limitation, nor is it inherent.

In col. 9, lines 46-51 of *Wasserman*, there is a disclosure relating to the use of “external cocatalysts”, which are secondary cocatalysts added to the catalyst composition. This passage does not expressly, or inherently, disclose the Applicant’s claimed “ionizing activators”.

In col. 6, lines 66-67, *Wasserman* reads “The cocatalyst is capable of activating the metallocene catalyst, and may be one of the following: [(a) MAO (b) ionic salts, and (c) boron alkyls].” There is no disclosure or suggestion that two or more of these may serve as cocatalysts.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”. **MPEP** § 2131 (August 2001). “To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. **MPEP** § 2131.01 (August 2001). There is no “express” disclosure in *Wasserman* of using an “ionizing activator” as Applicant claims. Further, it is not inherent in *Wasserman* that ionizing activators could be substituted for the TIBA compound. The Examiner has not shown such inherency. Therefore, the Applicant respectfully requests that this rejection be withdrawn.

Section 103 Rejections

Claims 29, 43 and 52 were rejected under 35 U.S.C. § 103(a) as being obvious over *Wasserman* in view of US 6,239,058 to *Shamshoum et al.* The independent claims are believed allowable, thus, the claims dependent therefrom are allowable as described. The Applicant requests that this rejection be withdrawn.

Claims 35 and 49 were rejected under 35 U.S.C. § 103(a) as being obvious over *Wasserman*. The independent claims are believed allowable, thus, the claims dependent therefrom are allowable as described. The Applicant requests that this rejection be withdrawn.

Finally, Claims 31, 32, 45 and 46 were rejected under 35 U.S.C. § 103(a) as being obvious over *Wasserman* in view of *Reichle et al* (US 6,066,703). The independent claims are believed allowable, thus, the claims dependent therefrom are allowable as described. The Applicant requests that this rejection be withdrawn.

There is no disclosure in *Shamshoum* of an ionizing activator. Further, there is no disclosure in *Wasserman* of using an ionizing activator as in Claim 23 or 40 (see above). Thus, there is no combination of the two references that would include all elements of the independent Claim 40. Thus, all claim limitations in these two references are not taught or suggested. **MPEP** § 2143.03 (August 2001).

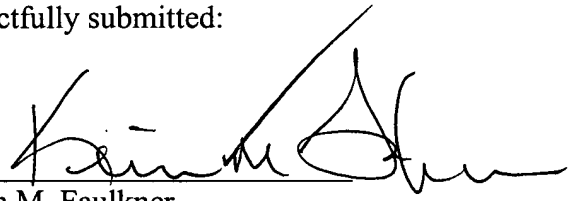
The following should be noted: the Applicant disagrees with the Examiner's calculation of the amount of TIBA (TIBA/Zr) used in the Examples of *Wasserman*. As stated in col. 12, lines 15-20, the loading of Zr on the supported compositions is only 3.39×10^{-5} mol/gram. Only 0.045 g of this is combined with 1 mL of TIBA in Table 2. There is no disclosure of the concentration of this TIBA solution. See col. 12, lines 37-39, and Table 2. Table 3 indicates that TIBA is 20 wt% in isopentane, which is a relatively high concentration. If this is indeed the concentration used in Table 2, this would amount to a much greater ratio of TIBA/Zr than 0.028 as calculated in paper 8.

It is submitted that the Claims 23-53 (ex. 34 and 48) are in condition for allowance. The applicant invites the Examiner to telephone the undersigned attorney if there are any other issues outstanding which have not been presented to the Examiner's satisfaction.

Respectfully submitted:

December 20, 2002

Date

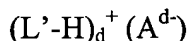

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MARKED CLAIMS TO SHOW CHANGES MADE

24. (Once Amended) The process of Claim 23, wherein the components of the catalyst [composition] components in (ii) are contacted for at least 1 min.
25. (Once Amended) The process of Claim 23, wherein the components of the catalyst [composition] components in (ii) are contacted for between 1 min. to one day.
26. (Once Amended) The process of Claim 23, wherein the components of the catalyst [composition] components in (ii) are contacted for between one hour and one day.
35. (Once Amended) The process of Claim 23, wherein the ionizing activator is a compound represented by the formula:



wherein L' is [an] a neutral Lewis base;

H is hydrogen;

$(L'-H)^+$ is a Bronsted acid

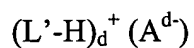
A^{d-} is a non-coordinating anion having the charge d-; and

d is an integer from 1 to 3.

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40. (Once Amended) A process for polymerizing olefin(s) comprising the steps of:
- (a) preparing a catalyst composition by combining a catalyst compound, supported alumoxane or aluminum alkyl activators, and an ionizing activator to form the catalyst composition, wherein the [catalyst composition is] components are contacted for at least 1 min prior to contacting with olefin(s) for polymerization; and
- [(c)] (b) contacting the catalyst composition with one or more olefins under polymerization conditions to form a polyolefin.

49. (Once Amended) The process of Claim 40, wherein the ionizing activator is a compound represented by the formula:



wherein L' is [an] a neutral Lewis base;

H is hydrogen;

$(L'-H)^+$ is a Bronsted acid

A^{d-} is a non-coordinating anion having the charge d-; and

d is an integer from 1 to 3.